

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Will T. Blanton
Amateur Radio Station
N5ROC

NAL/Acct. No. 315OR0006

ORDER

Adopted: June 30, 1995;

Released: July 10, 1995

By the Chief, Compliance and Information Bureau:

I. INTRODUCTION

1. Mr. Will T. Blanton (Petitioner) filed a Petition for Reconsideration, seeking review of the monetary forfeiture of \$2,000 issued under authority of Section 503(b) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 503(b), for violating Section 333 of the Act, 47 U.S.C. § 333, and Section 97.101(d) of the Commission's rules, 47 C.F.R. § 97.101(d). For the reasons noted below, the Bureau reduces the monetary forfeiture to \$1,000.

II. BACKGROUND

2. On March 19, 1993 between 7:01 p.m. and 7:45 p.m., and on April 2, 1993, between 7:01 p.m. and 7:11 p.m., Petitioner transmitted signals on amateur radio frequencies 147.27 MHz from amateur radio station N5ROC. Petitioner used these signals to interfere with the communications of other amateur operators. Based on transcripts made from a recording of these transmissions, the New Orleans Office issued Petitioner a Notice of Apparent Liability (NAL) in the amount of \$2,000 on September 10, 1993.

3. Petitioner responded to the NAL, arguing that he did not believe he was in violation of Section 97.101(d) and that he never intended to obstruct or interfere with the communications of any other amateur radio station. On November 5, 1993, the New Orleans Office issued a Notice of Forfeiture (NOF) for \$2,000. On reconsideration, Petitioner resubmits his response to the NAL.

III. DISCUSSION AND CONCLUSION

4. As an initial matter, we note that, in assessing the forfeiture amount, the New Orleans Office followed the forfeiture guidelines established in the Commission's *Policy Statement, Standards for Assessing Forfeitures, (Policy Statement)*, 8 FCC Rcd 6215 (1993). On July 12, 1994, the Court of Appeals for the D.C. Circuit vacated the forfeiture guidelines. *United States Telephone Assn. v. FCC*, 28 F.3d

1232 (D.C. Cir. 1994). On reconsideration, the Bureau has reassessed the amount pursuant to the statutory guidelines set forth in Section 503 of the Act, 47 U.S.C. § 503(b)(2)(D). In particular, Section 503(b) of Act requires that the Commission "take into account the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require." 47 U.S.C. § 503(b)(2)(D).

5. Turning now to Petitioner's arguments, we first note that the determination that Petitioner willfully or maliciously interfered with amateur communications is based on transcripts of his transmissions that provide sufficient evidence upon which to conclude that Petitioner violated Section 97.101(d) of the rules. The transcripts reveal that, at approximately 7:01 p.m. on March 19, 1993, Petitioner began transmitting over communications on a directed net on frequency 147.27 MHz. Petitioner indicated that he was going to talk, whether recognized or not. He then followed the net when it moved to 145.43 MHz and when it moved back to 147.27 MHz. Thus, Petitioner continued to disrupt communications until 7:45 p.m. On April 2, 1993, Petitioner again caused interference on 147.27 MHz by transmitting over communications in progress until the net moved to another frequency.

6. We have reconsidered the monetary forfeiture amount in this case, in accordance with the statutory factors set forth in Section 503(b) of the Act, 47 U.S.C. § 503(b)(2)(D). Recognizing the serious problem of willful or malicious interference to communications on amateur radio frequencies, taking into account congressional interest in this problem, see H.R. Rep. No. 552, 103d Cong., 2d Sess. 40 (1994), and given the evidence in this case, demonstrating that Petitioner's actions could not in any way be considered accidental, or unintentional, we conclude that the appropriate forfeiture amount is \$1,000.

IV. ORDERING CLAUSES

7. IT IS ORDERED THAT, pursuant to Section 503(b) of the Act, 47 U.S.C. § 503(b), and Sections 1.80 and 1.106 of the Rules, 47 C.F.R. §§ 1.80, 1.106, the petition for reconsideration is GRANTED in part and the monetary forfeiture is REDUCED. Petitioner may file an application for review of this decision within thirty (30) days pursuant to Section 1.115 of the rules. 47 C.F.R. § 1.115.

8. IT IS FURTHER ORDERED that Mr. Will T. Blanton must pay the forfeiture amount of one thousand dollars (\$1,000) within thirty (30) days of receipt of this Order. Payment may be made by check or money order payable to the Federal Communications Commission.¹ Please place NAL/Acct. No. 315OR0006 on the remittance and mail to:

Federal Communications Commission
P.O. Box 73482
Chicago, Illinois 60673-7482

¹ Requests for installment plans should be mailed to: Chief, Billings and Collections, Mail Stop 1110A2, 1919 M Street, N.W., Washington, D.C. 20554. Payment of the forfeiture in installments may be considered as a separate matter in accordance with Section 1.1914 of the Commission's rules.

9. IT IS FURTHER ORDERED that a copy of this Order shall be sent by certified mail, return receipt requested to Will T. Blanton and counsel.

FEDERAL COMMUNICATIONS COMMISSION

Beverly G. Baker
Chief, Compliance and Information Bureau